

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT APPLICATION)
 OF QWEST CORPORATION AND THE) CASE NO. QWE-T-03-15
 COMMISSION STAFF FOR APPROVAL OF THE)
 PARTIES' AGREEMENT REGARDING TOLL) NOTICE OF APPLICATION
 RESTRICTION SERVICE IN QWEST'S)
 SOUTHERN AND NORTHERN IDAHO SERVICE) NOTICE OF MODIFIED
 AREAS.) PROCEDURE
)
) ORDER NO. 29314**

On July 30, 2003, Qwest Corporation and the Commission Staff (the Parties) filed a Joint Application to approve their Agreement concerning the regulatory status of toll restriction service. "Toll restriction" service prohibits a Qwest customer from accessing a long-distance carrier on any line on which the service is installed. The Parties propose that toll restriction in Qwest's southern Idaho operating territory be removed from the Commission's Title 62 jurisdiction and placed under the Commission's Title 61 jurisdiction. In addition, the Parties proposed that the monthly rates for toll restriction be increased but these rate increases would be mitigated by elimination of the non-recurring (installation) charge for residential customers in both northern and southern Idaho.

NOTICE OF JOINT APPLICATION***A. Background***

In their Application, the Parties observed that the regulatory status of toll restriction has been in conflict since 1997. Application at 2. In its 1997 rate case, Qwest's predecessor (U S WEST) argued that toll restriction should be a price-deregulated service under Title 62. Conversely, the Staff argued that the service should be price regulated under Title 61.¹ In its rate

¹ The Commission's traditional regulatory authority is found in Title 61 of the Idaho Code. The Idaho Telecommunications Act of 1988 added a new chapter to Title 62 and created a modified form of regulation for telephone companies providing other than basic local exchange services in Idaho. *Idaho Code* § 61-604(2) allows Qwest to remove its non-basic local services from the Commission's Title 61 authority. In March 1989, Qwest's predecessor elected to remove its non-basic local services from the Commission's Title 61 authority. Consequently, non-basic services provided in southern Idaho (e.g., local services to business with more than five access lines or custom calling features) are now subject to the Commission's Title 62 jurisdiction.

case Order No. 27100, the Commission concluded that toll restriction should be regulated under Title 61. Qwest filed a timely Petition for Reconsideration which was subsequently denied. *Id.* at 3. Thereafter, Qwest filed a Notice of Appeal to the Idaho Supreme Court in December 1997.

While the appeal was pending, Qwest and the Staff entered into a Stipulation regarding the appropriate regulatory status for toll restriction. The Parties agreed that toll restriction should remain a Title 62 service but that it should be offered under fixed rates and terms for a period of three years. Monthly residential rates were proposed to be \$0.25 and the monthly single-line business rate was proposed to be \$1.00. Customers in the Idaho Telecommunications Service Assistance Program (ITSAP) would receive toll restriction at no charge. Residential and single-line business customers ordering the service in southern Idaho would be assessed a non-recurring charge of \$13.50 except that the non-recurring charge would be waived on the first line for residential customers requesting toll restriction at the time they initiated local service. The Stipulation also called for Qwest to voluntarily dismiss its Supreme Court appeal if the Commission approved the Stipulation.

In October 1998, a majority of the Commission approved the terms of the Stipulation in Order No. 27785. *Id.* at 4. That Order provided that the terms of the Stipulation should run for a period of three years.

Near the end of the three-year period, Staff discovered that Qwest had inadvertently assessed the non-recurring charge on new residential customers ordering toll restriction and had misbilled some of its ITSAP customers. Consequently, the Parties executed another Stipulation in September 2001. This second Stipulation required Qwest to refund money to affected customers and extended the terms of the original Stipulation through the end of calendar year 2002. This latter Stipulation was approved by the Commission in Order No. 28862 in October 2001. *Id.*

B. The Present Agreement

YOU ARE HEREBY NOTIFIED that in an attempt to settle this ongoing controversy, the Parties have engaged in settlement negotiations. Following these negotiations, the Parties recently entered into a new Agreement which culminated in the present Joint Application. As set out on pages 5-6 of the Application, the new Agreement contains the following provisions:

1. In southern Idaho Qwest will file appropriate tariff revisions to move toll restriction service for residential and business customers with five or fewer lines from a Title 62 to a Title 61 service. Currently, toll restriction in Qwest's northern Idaho service territory remains under Title 61.
2. The Parties propose that the monthly rates for toll restriction for residential customers be increased from \$.25 per line to \$.75; and from \$1.00 to \$2.00 per business line. Residential and business customers in both northern and southern Idaho will be charged the same monthly rates.
3. Qwest will individually notify the more than 35,000 customers who subscribe to toll restriction service of the proposed rate changes.
4. As part of its rate adjustments, Qwest will file changes to its northern and southern Idaho schedules to eliminate the respective \$24.00 and \$13.50 non-recurring (installation) charges for residential customers ordering the service. In addition, the non-recurring charge for northern Idaho business customers will be reduced from \$24.00 to \$13.50. Business customers in both northern and southern Idaho will be assessed the same \$13.50 non-recurring charge.
5. ITSAP customers will not be charged for toll restriction.
6. The Staff will not seek a rate reduction in Title 61 toll restriction rates outside a general rate case in either northern or southern Idaho.

YOU ARE FURTHER NOTIFIED that the Parties assert that the foregoing proposed changes eliminate the ongoing controversy about the regulatory status of the toll restriction. The Parties further agree adoption of the Joint Application will settle the controversy. The Parties maintain that the proposed rates are reasonable and approval of the Application is in the public interest. Each of the Parties supports the Application by including witness declarations.

YOU ARE FURTHER NOTIFIED that as part of the Application, Qwest has submitted proposed price list/tariff schedule incorporating the terms and conditions set out in the Joint Application. Qwest has also attached its proposed press release in accordance with the Commission's Rule 102, IDAPA 31.41.02.102. As previously mentioned, Qwest will individually notify toll restriction customers of the proposed rate changes.

YOU ARE FURTHER NOTIFIED that the Parties propose that the rates and terms of the Application become effective on October 1, 2003. The Parties propose that this matter be processed under Modified Procedure with a 28-day comment cycle.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission within twenty-eight (28) days from the service date of this Notice. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this application shall be mailed to the Commission and Qwest at the addresses reflected below:

COMMISSION SECRETARY
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST
BOISE, ID 83702-5983

MARY S HOBSON
STOEL RIVES, LLP
101 S CAPITAL BLVD, STE 1900
BOISE, ID 83702-5958
E-mail: mshobson@stoel.com

ADAM L. SHERR
QWEST CORPORTION
1600 7TH AVENUE, RM 3206
SEATTLE, WA 98191
E-mail: asherr@qwest.com

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.state.id.us. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to Qwest at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that the Joint Application together with supporting declarations and workpapers have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. These documents

may also be viewed at the Commission's website www.puc.state.id.us under the "File Room" icon.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 and Title 62 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Titles 61 and 62.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

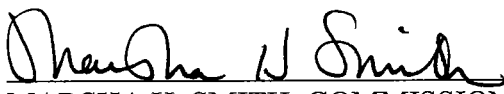
ORDER

IT IS HEREBY ORDERED that this Joint Application be processed under Modified Procedure. Persons interested in submitting comments regarding this Application should do so within 28 days of the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 17th day of August 2003.



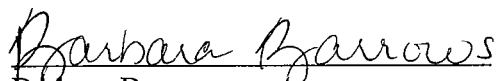
PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER

Commissioner Hansen Out of the Office
DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Barbara Barrows
Assistant Commission Secretary

vld/O:QWET0315_dh

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